

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2257.05
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	May 20, 2005
DATE OF REPORT:	June 17, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	July 25, 2005

COMPLAINT ISSUES:

Whether Gary Community Schools violated:

511 IAC 7-27-4(a)(3) by failing to convene a case conference committee meeting upon the request of a parent in October 2004.

511 IAC 7-27-4(c) by failing to utilize the case conference committee to develop, review or revise the student's individualized education program.

During the course of this investigation, two additional issues were identified:

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written report of the case conference committee meeting held in October 2004.

511 IAC 7-27-7(d) by continuing to implement an individualized education program (IEP) for a period of more than 12 months.

FINDINGS OF FACT:

1. The Student has been identified as having a moderate mental disability and has been determined eligible for special education and related services.
2. The Student's case conference committee (CCC) convened on October 13, 2004 at the request of the parent. The School confirms the parent request of the conference and acknowledges that the parent disagreed with conclusions regarding placement of the Student. Consequently, the Parent left the CCC meeting without signing the IEP. The School further acknowledges that the Complainant did not receive a copy of the CCC Report/IEP after the meeting held on October 13, 2004.
3. The School acknowledged that it does not have a copy of the IEP developed during the October 13, 2004 CCC meeting due to technical problems saving the document.
4. A CCC meeting was convened on March 10, 2005 at the request of the parent.
5. The Complainant alleges that the School refused to address her concerns regarding the Student's program and placement at the March 10, 2005 CCC meeting. Specifically, the Complainant wants to place the Student in a different school outside the district with a different program. The CCC has not been able to come to an agreement regarding this placement.

6. The CCC report from the CCC meeting March 10 does not contain notes or minutes indicating whether and to what extent the CCC addressed the concerns of the Complainant. The Complainant did receive a copy of the IEP/CCC report but does not agree with it and has not signed it.
7. The Student's IEP in effect at the beginning of the 2004-2005 school year is dated January 22, 2004. The duration of service date of this IEP is January 22, 2005. The School continued to implement this IEP for the remainder of the school year.

CONCLUSIONS:

1. Finding of Fact #2 indicates the School convened a CCC meeting at the request of the parent in October 2004. Therefore, no violation of 511 IAC 7-27-4(a)(3) is found.
2. Findings of Fact #'s 2 and 5 indicate that the School and the Complainant cannot agree on a revised IEP for the Student. Because a complaint investigation cannot resolve disagreements between the parent and the public agency over what constitutes a free appropriate public education (FAPE) or LRE, no violation of 511 IAC 7-27-4(c) is found. A due process hearing or mediation may be utilized to resolve disputes arising in the CCC as to the appropriateness of the Student's IEP.
3. Findings of Fact #2 and 3 indicate the School failed to provide the Complainant with a copy of the written CCC Report/IEP after the CCC meeting held on October 13, 2004. Therefore, a violation of 511 IAC 7-27-5(c) is found.
4. Finding of Fact #4 indicates that the School has continued to implement the Student's IEP for a period of more than 12 months. Therefore, a violation of 511 IAC 7-27-7(d) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Gary Community Schools shall:

1. Send a written memorandum to all school administrators and relevant special education personnel regarding compliance with the requirements set forth in 511 IAC 7-27-5(c), which require the public agency provide the Parent a copy of the written report. A copy of the memorandum and a list of personnel that received it shall be submitted to the Division no later than September 2, 2005.
2. Send a written memorandum to all school administrators and relevant special education personnel regarding compliance with the requirements of 511 IAC 7-27-7(d), which prohibits use of an IEP for more than twelve months. A copy of the memorandum and a list of personnel who receive it shall be submitted to the Division no later than September 2, 2005.